STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Independent Telephone Association	)	
	)	
Petition for initiation of an investigation of the	)	
necessity of and the establishment of a	)	Docket No. 00-0233
Universal Service Support Fund in accordance	)	
with Section 13-301(d) of the Public Utilities Act	)	
	)	Cons.
Illinois Commerce Commission	)	
On its Own Motion	)	
	)	
Investigation into the necessity of and, if	)	Docket No. 00-0335
appropriate, the establishment of an universal	)	
support fund pursuant to Section 13-301(d) of	)	
the Public Utilities Act.		

REPLY BRIEF OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION ON REHEARING

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The Staff of the Illinois Commerce Commission ("the Staff"), by and through its counsel, and pursuant to Section 200.800 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.800), respectfully submits its Reply Brief on Rehearing in the above-captioned matter.

I. The Commission Should Set the Affordable Rate at $22.23

Staff supports an affordable rate of $22.23. ICC Staff Initial Brief ("IB") on Rehearing at 6. Ameritech also recommends an affordable rate of $22.23. Ameritech IB on Rehearing at 2. Harrisonville, the IITA, and Leaf River et al.[1], (hereafter, collectively, "Leaf River") propose an affordable rate of $20.39. Harrisonville IB on Rehearing at 7, IITA IB on Rehearing at 4, Leaf River IB on Rehearing at 6. However, Harrisonville, Leaf River, and IITA are incorrect. The affordable rate should be set at $22.39, as recommended by the Staff, Ameritech, and Verizon.

In support of its argument, Harrisonville claims that Verizon waived its original $22.23 affordable rate proposal and consequently the $20.39 alternative should be adopted. Harrisonville IB on Rehearing at 1, 3. However, no question of a waiver can attach here. Based upon the Commission's order granting rehearing, Verizon cannot waive the issue, since the Commission specifically directed the parties to address it on rehearing. *See* Notice of Commission Action (October 31, 2001); Memorandum of the Administrative Law Judge to the Commission at 2 (October 26, 2001). Moreover, even if this were not the case,

[1]Leaf River Telephone Company, Montrose Mutual Telephone Company, New Windsor Telephone Company, Oneida Telephone Exchange, Viola Home Telephone Company, Woodhull Community Telephone Company.

Verizon could not waive the issue in a manner binding upon the other parties. Indeed, the Commission need not, and should not, base its choice of the affordable rate exclusively on Verizon's submissions in this proceeding. The Commission should choose the affordable rate alternative that most closely corresponds to what a typical Verizon rural subscriber pays for monthly telephone service. This is $22.23, for the reasons articulated by Staff in its direct testimony. *See* ICC Staff Ex. 1.0 on Rehearing at 1-4.

Further, the calculations the rural LECs advance in support of $20.39 affordable rate are thoroughly defective. The $20.39 calculation is based on the assumption that the typical Verizon subscriber makes 100 local calls a month. The record, however, is entirely bereft of hard evidence that the typical Verizon subscriber makes 100 local calls a month. Harrisonville relies on Dr. Beauvais' oral testimony to justify the 100 local calls per month figure, but Harrisonville incorrectly quotes Dr. Beauvais as stating that the typical Verizon subscriber's usage expenditures "would translate directly 100 calls, somewhere around 400 minutes a month…[.]" Harrisonville IB on Rehearing at 3, citing Tr. 378-9. Dr. Beauvais actually said that the typical Verizon subscriber's usage expenditure "would translate to **roughly** 100 calls, somewhere around 400 minutes a month…[.]" Tr. at 379 (emphasis added). Since Harrisonville appears to fundamentally misunderstand – and, indeed, does not correctly quote – Dr. Beauvais' testimony, the Commission should put little weight on the calculations, arguments or methodology used by Harrisonville to support its $20.39 affordable rate proposal.

Similarly, the IITA misleadingly asserts that Dr. Beauvais used a benchmark of 100 calls a month as a usage additive, and that the Verizon usage rate is $0.034 per call. IITA IB on Rehearing at 3. In fact, Dr. Beauvais used $5.24 as the usage expenditure additive, and roughly translated this expenditure amount to what it would mean in terms of locals calls, which he approximated to be 100. Tr. at 379. In addition, Verizon's local usage rate of $0.034 per call is for home exchange calls only. ICC Staff Ex. 1.0 on Rehearing at 4. However, the rate for EAS (extended area service) local calls is $0.11 per call, Id., and consequently using $0.034 as the usage call rate will understate usage expenditures by a significant margin, even assuming that only 100 local calls are made a month. ICC Staff Ex. 1.0 on Rehearing at 4.

Leaf River contends that Verizon's local calling volumes include EAS calls that would be priced at toll rates for many rural companies. Leaf River IB on Rehearing at 3. Leaf River further argues that many small companies' average monthly local call count per subscriber line is below 100, the call figure used by Harrisonville and the IITA to arrive at their proposed affordable rate of $20.39. Leaf River IB on Rehearing at 4.

Leaf River's arguments are completely irrelevant. Leaf River confuses the value to the customer of the telecommunications service provided, with what constitutes the affordable rate a subscriber can pay for those services. The issue in this case is not how much value USF eligible company subscribers get from telephone service, or whether this value is greater or less than the value Verizon subscribers get for their telephone service. The issue in this proceeding is how much USF eligible company subscribers can afford to spend on telephone service, regardless of whether those services are greatly valuable to them, or have little value to them. If similarly situated Verizon subscribers can afford to pay a certain rate for local telephone service – regardless of value – then USF eligible subscribers can "afford" to pay the same the rate for telephone service.

II. The Commission Should Order that All Access Lines be Subsidized by the Universal Service Fund

Staff propose that all lines of USF eligible companies be subsidized. ICC Staff IB on Rehearing at 6. The IITA, Leaf River, and Harrisonville also argue that all lines be supported. IITA IB on Rehearing at 8; Leaf River IB on Rehearing at 6; Harrisonville IB on Rehearing at 8. Verizon recommends that only the primary residential line and a single business line be subsidized. Verizon IB on Rehearing at 2. Ameritech makes the same recommendation. Ameritech IB on Rehearing at 4.

Verizon argues that if second lines can be provisioned at little or no cost, they should not be supported. Verizon IB on Rehearing at 3. However, this argument essentially rebuts itself. If, as Verizon argues, second lines are provisioned at little or no cost, and current rates cover these "zero" or, at most, modest costs, it follows that any revenue shortfall that USF eligible companies currently face comes almost exclusively from primary lines. It further follows that, if all or virtually all of the revenue shortfall USF eligible companies currently experience comes from primary lines, then no reduction in total subsidy amount is warranted, -- regardless of which lines receive support – since current subsidies are, by implication, subsidizing only primary lines to begin with.

Ameritech contends that second lines are discretionary services. Ameritech IB on Rehearing at 5. This, however, is highly questionable[2]. Businesses subscribe to second and additional lines not because they are convenient to have, but because they are necessary to conduct business. ICC Staff Ex. 1.0 on Rehearing at 10. If the Boeing aircraft company moved its headquarters to Leaf River rather than Chicago, for example, it is preposterous to suggest that only one line would be necessary to service the entire headquarters staff of this company. On the residential side, it is difficult to argue that, for example, a household with three teenage children really has a great deal of choice of discretion in getting a second line. Second lines are also used extensively to access the internet, and an increase in second line rates would likely harm internet penetration rates in rural areas, further exacerbating the digital divide, an outcome directly contrary to the General Assembly's expressed policies in this area. *See, e.g.*, 30 ILCS 780/5-3 (state policy should foster "a society in which all individuals can benefit from the opportunities created by the new [digital] technologies.") Ultimately, the Commission must decide whether the modest cost savings achieved from removing subsidies from second and additional lines outweigh the administrative, financial and social problems that

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2 The notion that second lines are "discretionary" may come as news to SBC's marketing arm, which has marketed services such as call waiting, caller ID, and other custom calling features as "basic," a practice found to be improper by the California PUC. Utility Consumers' Action Network vs. Pacific Bell, Decision No. 01-09-058, §§ 7.1, 7.2 (September 20, 2001).

this would cause rural telephone companies and their subscribers. The Commission should resolve this by ordering that all lines be supported.

III. The Affordable Rate Should Be Phased In Annually Over A Number of Years

Staff proposes a four-year phase-in period if the affordable rate is set at \$22.23, and a three-year phase in period if the affordable rate is set at \$20.39. ICC Staff IB on Rehearing at 11. Staff further recommends that the phase-in of rates occur in yearly increments, starting October 1, 2001, and that the phase-in amount be the greater of \$2 or one quarter (one third in the case of an affordable rate of \$20.39) of the difference between the current rate and the affordable rate. For an affordable rate of \$20.39, Leaf River proposes a three-year phase-in with annual increases of \$1 per year, to occur every six months beginning July 1 2002, if the current rate is below \$17.39. Leaf River IB on Rehearing at 25. If the current rate is below \$17.39 Leaf River proposes a five-year phase-in period with rate increases equal to 20% of the difference between the current rate and the affordable rate. Leaf River IB at 25. Ameritech recommends a three-year phase-in period, with minimum increase of \$1.00 every six months if the affordable rate is set at \$22.23, and a two-year phase-in period if the affordable rate is set at \$20.39. Ameritech IB on Rehearing at 7. Verizon contends that the phase-in should take place over no more than three years, with semi-annual increases in the affordable rate. Verizon IB on Rehearing at 4.

In the Staff's opinion, the semi-annual affordable rate phase-in proposal is likely to be administratively burdensome. It also introduces needless complications to the USF fund size calculations without much, if any, consumer benefits. If the affordable rate is phased in semi-annually rather than annually, it will effectively double the tasks associated with rate changes, such as rate re-programming, bill notifications, and explanations to subscribers phoning in about the bill, that companies will have to undertake. It also complicates the calculations involved in determining the fund size since half the year is funded to support one affordable rate while the other half of the year is funded to support a higher affordable rate, not to mention other issues associated with fund administration. In addition, if the affordable rate is adjusted semi-annually, the surcharge used to support USF should be adjusted semi-annually as well, which introduces further complications. Finally, it appears self-evident that semi-annual increases are less palatable to consumers than annual increases. Consumers will have to adjust to two increases a year rather than one, although Staff acknowledges that the one annual increase will be double the magnitude of the two semi-annual increases.

Likewise, higher affordable rates warrant longer phase-in periods. If the affordable rate is set at $20.39, then with the exception of Ameritech, the parties agree there should be a three-year phase in. If the affordable rate is set at $22.23, then the phase-in period should be four years.

IV. Comments on Other Parties' Schedules

At the December 18, 2001, hearing, the ALJ suggested that the parties attach schedules to their initial briefs showing the parties' calculation of IUSF amounts. The ALJ continued and stated that the parties should then comment on the accuracy of the schedules filed with the initial briefs. Tr. at 1112-3.

The Staff now offers its comments on the schedules filed with the Initial Brief on Rehearing of the IITA and the Initial Brief of Intervenors on Rehearing.

The Initial Brief on Rehearing of the IITA offers four exhibits: Exhibits 1 through 4. Staff has reviewed the calculations on the IITA's four exhibits, and the calculations provided appear to be correct. However, the IITA's four exhibits do not provide IUSF amounts for the first year of operations for each of the 39 telecommunications carriers, nor do they provide a total fund amount. Each of the four exhibits provides annual IUSF fund amounts for a phase-in plan consisting of six six-month periods. The actual annual amount requires for the first year requires a calculation involving columns "l" and "m" on each exhibit. The first year annual amount consists of the sum of one-half of column "l" and one-half of column "m". Thus, the four IITA exhibits require further calculations to provide annual amounts for the first year of the IUSF support. Additionally, Exhibit 1 lacks an explanatory title: "$20.39 Affordable Rate – Support for All Lines."

The Initial Brief of Intervenors on Rehearing offers four schedules: Schedule A through Schedule D. Staff has reviewed the calculations on the Intervenors' four schedules, and the calculations provided appear to be correct.

In summary, the Staff recommends that the Commission adopt an affordable rate of $22.23, and further recommends that the Commission order support for all access lines. In addition, the Staff recommends that the recommended affordable rate be phased in over a period of four years, with increases on an annual basis, commencing October 1, 2001. This yields a fund of $10,120,014. See Staff IB on Rehearing, Schedule 9.

WHEREFORE, the Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in their entirety consistent with the arguments set forth herein.

Respectfully Submitted,

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